

Message Text

LIMITED OFFICIAL USE

PAGE 01 STATE 311722 TOSEC 340058
ORIGIN L-03

INFO OCT-01 SS-15 SSO-00 CCO-00 ISO-00 ONY-00 /019 R

DRAFTED BY L:MLEIGH:BE

APPROVED BY L:MLEIGH

S: HCOLLUMS

S/S-O: SGOLDSMITH

DESIRED DISTRIBUTION

S AND L ONLY

-----281618Z 011536 /44

Z 281605Z DEC 76 ZFF4

FM SECSTATE WASHDC

TO USDEL SECRETARY FLASH

LIMITED OFFICIAL USE STATE 311722 TOSEC 340058

FOR THE SECRETARY ONLY FROM LEIGH

E.O. 11652: N/A

TAGS: SOPN

SUBJECT: PRESS GUIDANCE

A. FOLLOWING ARE Q & A'S TO BE USED BY SPOKESMAN ON AN
IF ASKED BASIS: QUOTE:

Q. WHY DIDN'T THE SECRETARY SIMPLY INCLUDE THE TELE-
PHONE TRANSCRIPTS WITH THE OTHER PAPERS HE DONATED TO THE
LIBRARY OF CONGRESS?

A. IT WAS RECOGNIZED THAT THERE WERE CERTAIN RIGHTS
OF PRIVACY RAISED BY THESE NOTES, WHICH WERE NOT RAISED
BY THE OTHER PAPERS.

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 311722 TOSEC 340058

Q. WHY WASN'T THE FIRST DONATION DELAYED SO THAT ALL
OF THE SECRETARY'S PAPERS COULD BE DONATED AT ONCE?

A. IT WAS EASIER TO DEAL WITH THE OTHER PAPERS FIRST.
THEY DID NOT APPEAR TO RAISE THE TYPE OF PRIVACY QUESTIONS
THAT WERE POTENTIALLY RAISED BY THE NOTES ON THE TELEPHONE

CONVERSATIONS. IN VIEW OF THE INVITATION FROM THE LIBRARY OF CONGRESS TO HAVE THE SECRETARY'S PAPERS DEPOSITED THERE, THE SECRETARY DECIDED TO GO AHEAD WITH THE DONATION OF THE PAPERS.

Q. LAST WEEK, IT WAS SAID THAT THE TELEPHONE NOTES WERE NOT GOING TO THE LIBRARY OF CONGRESS. ISN'T TODAY'S ANNOUNCEMENT INCONSISTENT WITH THAT STATEMENT?

A. WHAT WAS CLEAR WAS THAT THE NOTES ON THE TELEPHONE CONVERSATIONS WERE NOT GOING TO THE LIBRARY OF CONGRESS UNDER THE INITIAL DONATION, AND THAT NO DECISION HAD BEEN REACHED WITH RESPECT TO HOW THE NOTES SHOULD BE PRESERVED, EXCEPT FOR THE VIEW THAT THEY WERE PERSONAL PAPERS. NOTHING MORE WAS INTENDED BY WHAT WAS SAID.

Q. WHY DIDN'T YOU JUST SAY LAST WEEK THAT THESE PAPERS WERE GOING TO THE LIBRARY OF CONGRESS?

A. IT WASN'T APPROPRIATE TO MAKE AN ANNOUNCEMENT UNTIL A FINAL DECISION HAD BEEN MADE AS TO WHAT ADDITIONAL RESTRICTIONS SHOULD BE ADOPTED TO PROTECT THE PRIVACY INTERESTS RAISED BY THE NOTES.

Q. ISN'T IT UNUSUAL TO SIGN A DEED OF GIFT ON CHRISTMAS EVE?

A. SECRETARY KISSINGER WAS ABOUT TO LEAVE TOWN UNTIL AFTER NEW YEAR'S. HE HAD REACHED A DECISION ON APPROPRIATE RESTRICTIONS TO PROTECT RIGHTS OF PRIVACY RAISED LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 STATE 311722 TOSEC 340058

BY THESE PAPERS. TO AVOID FURTHER SPECULATION, ARRANGEMENTS WERE MADE TO HAVE THE DEED OF GIFT EXECUTED BEFORE THE SECRETARY'S DEPARTURE.

Q. WHY WAS THE DECISION TAKEN NOW?

A. AS INDICATED IN THE ANNOUNCEMENT, THERE WAS GROWING SPECULATION ABOUT THE NOTES, AND IT SEEMED BEST TO REMOVE ANY POSSIBLE CLOUD AS SOON AS A DECISION COULD REASONABLY BE MADE.

Q. AREN'T THESE THE ONLY PERSONAL PAPERS GOING TO THE LIBRARY OF CONGRESS?

A. NO. THE ORIGINAL DEED OF GIFT EXTENDED BOTH TO COPIES OF GOVERNMENT PAPERS, AND TO PERSONAL PAPERS -- INCLUDING PRIVATE CORRESPONDENCE, PAPERS FROM THE SECRETARY'S YEARS AT HARVARD UNIVERSITY, AND SIMILAR PERSONAL

MATERIALS.

Q. WHEN WILL THE TELEPHONE NOTES BE DELIVERED TO THE LIBRARY OF CONGRESS?

A. ALL BUT THE MOST RECENT NOTES HAVE ALREADY BEEN DELIVERED TO THE LIBRARY.

Q. WHEN WERE THEY DELIVERED?

A. EARLIER TODAY.

Q. WHY THE HASTE IN DELIVERING THESE PAPERS TO THE LIBRARY?

A. FOR THE SAME REASONS THAT THE EARLIER DELIVERY OF PAPERS WAS PROMPTLY MADE -- NAMELY, TO COMPLETE THE GIFT, AND TO MAKE UNEQUIVOCAL THE SECRETARY'S INTENTIONS THAT LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 STATE 311722 TOSEC 340058

THE PAPERS ARE TO BE PRESERVED AT THE LIBRARY OF CONGRESS.

Q. THE LEGAL ADVISER'S OPINION IN NUMBERED PARAGRAPH 3 STATES THAT DEPARTMENT REGULATIONS REQUIRE EXTRACTS. WILL EXTRACTS STILL BE PREPARED?

A. YES. EXTRACTS WILL BE PREPARED BEFORE JANUARY 20 OF ANY SIGNIFICANT GOVERNMENTAL ACTIVITY OR DECISIONS WHICH DO NOT APPEAR TO BE CONTAINED IN EXISTING GOVERNMENT RECORDS. THE EXTRACTS WILL BE PLACED IN THE APPROPRIATE GOVERNMENT RECORD FILES.

Q. DOES THIS MEAN ALL SIGNIFICANT GOVERNMENT ACTIVITIES AND DECISIONS WILL BE EXTRACTED, OR ONLY THOSE NOT REFLECTED IN EXISTING GOVERNMENT RECORDS?

A. ONLY THE LATTER. HOWEVER, IF THERE IS ANY DOUBT AN EXTRACT WILL BE MADE.

Q. REGARDING THE STATUS OF SECRETARY KISSINGER'S TRANSCRIBED TELEPHONE CALLS, HAS THE DEPARTMENT OF JUSTICE GIVEN THE DEPARTMENT OF STATE ANY OPINION REGARDING THE STATUS OF THE SECRETARY'S TRANSCRIBED CALLS OTHER THAN THAT CITED BY LEGAL ADVISER MONROE LEIGH IN HIS NOVEMBER 11, 1976 MEMORANDUM?

A. NO. BUT IT SHOULD BE EMPHASIZED THAT ONE OF THE BASES FOR JUSTICE'S POSITION IS THAT THE PAPERS ARE PERSONAL.

Q. WHEN THE SECRETARY HAS TALKED WITH DIPLOMATS, HAS THERE GENERALLY BEEN MEMORANDA OF CONVERSATION PREPARED FOR THE DEPARTMENT'S RECORDS, THAT IS, OTHER THAN THOSE TRANSCRIBED FOR THE SECRETARY?

A. NOT MEMORANDA OF CONVERSATION. BUT WHEN MATTERS LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 05 STATE 311722 TOSEC 340058

DISCUSSED OVER THE TELEPHONE ARE IMPLEMENTED OR COMMUNICATED TO OTHERS WITHIN THE GOVERNMENT, THERE ARE GOVERNMENT RECORDS PREPARED.

Q. WITH REFERENCE TO MR. LEIGH'S STATEMENT (NOVEMBER 11 MEMORANDUM) THAT "I HAVE ON SEVERAL OCCASIONS DISCUSSED WITH YOU MY VIEW THAT YOU WOULD BE ENTITLED TO RETAIN THE TRANSCRIBED NOTES OF YOUR TELEPHONE CONVERSATIONS WHEN YOU LEAVE OFFICE," DID MR. LEIGH CONVEY THIS OPINION IN WRITING OR WAS IT PURELY ORAL IN FORM?

A. ORAL, BUT CONSISTENT WITH CONTEMPORANEOUS WRITTEN ADVICE GIVEN TO DEPARTMENT OFFICIALS IN CONNECTION WITH IMPLEMENTATION OF THE FREEDOM OF INFORMATION ACT.

Q. ISN'T MR. LEIGH'S OPINION, THAT THE TELEPHONE NOTES ARE PERSONAL, INCONSISTENT WITH THE GSA BULLETIN FPMR B-65, SIGNED BY THE ARCHIVIST OF THE UNITED STATES?

A. THE GSA BULLETIN PURPORTS TO BE A SUMMARY OF EXISTING LAW. SIGNIFICANTLY, HOWEVER, ALL OF THE PARAGRAPHS OF THE GSA BULLETIN ARE SUPPORTED BY A STATUTORY CITATION, EXCEPT FOR ONE -- THAT IS THE PARAGRAPH THAT ATTEMPTS TO DRAW A LINE BETWEEN PERSONAL AND OFFICIAL PAPERS. THIS PARAGRAPH OF THE GSA BULLETIN IS INCONSISTENT WITH DEPARTMENT REGULATIONS THAT HAVE BEEN IN EFFECT SINCE 1967. ALSO, LANGUAGE SIMILAR TO THIS PARAGRAPH WAS PROPOSED BY THE GSA IN THE FORM OF A REGULATION UNDER THE PRESIDENTIAL MATERIALS PRESERVATION ACT, AND IT WAS TWICE REJECTED BY THE CONGRESS. END QUOTE.

B. NOTE I HAVE CHANGED ANSWER TO THE QUESTION ON EXTRACTS SO THAT INSTEAD OF REFERRING TO EXTRACTING OF "DECISIONS" WE REFER TO EXTRACTING "SIGNIFICANT GOVERNMENTAL ACTIVITY OR DECISIONS." ON RECONSIDERATION, I STRONGLY RECOMMEND THIS CHANGE IN ORDER TO PRESERVE LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 06 STATE 311722 TOSEC 340058

CONSISTENCY WITH EARLIER LEGAL OPINION AND DEPARTMENTAL
REGULATIONS. I AM CONVINCED WE GAIN MORE FLEXIBILITY
FROM USE OF WORD "SIGNIFICANT" IN DECIDING WHAT TO EXTRACT.
IN ADDITION, ANY CHANGE FROM LANGUAGE OF LEGAL OPINION
WILL I FEAR BE TREATED BY PRESS WITH SUSPICION.
ROBINSON

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: Z
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TOSEC
Control Number: n/a
Copy: SINGLE
Draft Date: 28 DEC 1976
Decaption Date: 28 MAY 2004
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: ElyME
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE311722
Document Source: CORE
Document Unique ID: 00
Drafter: MLEIGH:BE
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760474-0041
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t1976129/aaaaahpx.tel
Line Count: 229
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: ONLY
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: ONLY
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: ElyME
Review Comment: n/a
Review Content Flags:
Review Date: 27 JUL 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <27 JUL 2004 by BoyleJA>; APPROVED <08 NOV 2004 by ElyME>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: PRESS GUIDANCE A. FOLLOWING ARE Q & A'S TO BE USED BY SPOKESMAN ON AN IF ASKED BASIS: QUOTE
TAGS: SOPN, OGEN
To: SECRETARY
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006